IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

CRP.No. 355 of 2007(G)

O.P (E.A).NO.645/2002 OF ADDL.DISTRICT COURT, ALAPPUZHA.

REVN. PETITIONER/RESPONDENT:

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA,
KAYAMKULAM,REP. BY ITS MANAGER.

BY ADV. SRI.MILLU DANDAPANI.

RESPONDENTS/ PETITIONERS:

VASUDEVAN PILLAI, VALATHARA THEKKETHIL,
THAMALLACKAL, KUMARAPURAM VILLAGE,
KARTHIKAPALLY TALUK.

BY ADV. SMT.A.SALINI LAL,
ADV. SRI.BINNY.A.THOMAS.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 01/12/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

==========

C.R.P. No.355 OF 2007

==========

Dated this the 1st day of December 2007

ORDER

This revision petition is preferred against the order of the Addl.District Court, Alappuzha in O.P.(E.A)No.645 of 2002. The respondent has entered appearance in the delay condonation application and his name is also shown in the list today. As per the award, the learned Addl.District Judge has awarded an additional compensation of Rs.39,110/-. Learned counsel for the petitioner brings to my notice that from paragraph 6 of the award, it can be seen that the decision is rendered on the basis of the decision of this court in ***Kumba Amma v. K.S.E.B.(2000(1)KLT 542),*** whereby the court found that the petitioner is entitled to annuity factor on the basis of 5% return. Now, in the decision reported in ***KSEB v. Livisha (2007(3) KLT 1***) the Apex Court has held that each case has to be decided on the facts relating to the same and had given the principles:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small

> track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case".

So, in the light of the above decision, the matter requires reconsideration at the hands of the court below for the reason that it may require additional evidence such as oral and documentary evidence. Therefore, the order under challenge is set aside and the matter is remitted back to the court below for fresh consideration in the light of the enunciated principles laid down in 2007(3) KLT 1. Parties are directed to appear before the court below on 11.1.2008.

M.N.KRISHNAN, JUDGE

Cdp/-